

Notice of Allowability

Application No.

09/602,198

Examiner

Victor K. Hwang

Applicant(s)

HABING ET AL.

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the RCE, amendment and remarks filed 11/04/04 and 12/06/04.
2. ☒ The allowed claim(s) is/are 32-36, 40, 42, 43, 45-47, 49-53, 55-57, 59, 60 and 65-67.
3. ☒ The drawings filed on 22 June 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20050307.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Victor K. Hwang
Patent Examiner

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Terence P. O'Brien on March 07, 2005.

2. The application has been amended as follows:

In the Claims:

A) Amend claims 32, 46 and 60 as follows:

-- 32. (Currently Amended) An exercise apparatus comprising:

(a) a frame with an upper region and a main pivot point axis located in the upper region, the frame further including a fore direction and an aft direction, the main pivot axis being located generally transverse to the fore and ~~apt~~ aft direction;

(b) a press arm having a full butterfly movement, the press arm having a main arm member and a pair of secondary arms, the main arm member pivotally connected to the frame about the main pivot axis, the secondary arms extending downwardly and forwardly at rest and pivotally connected to the main arm member about secondary axes, the secondary axes being laterally spaced apart and inclined from the vertical in a forward direction less than horizontal; and

(c) a source of resistance coupled to the press arm, said source of resistance comprises a weight coupled to the press arm via one or more cables;

wherein the press arms assume a natural rest position under the influence of gravity in which press arm handles are at a comfortable starting position for performance of a press exercise; further wherein stops to limit the inward or outward travel of the press arm handles are not necessary.

46. (Currently Amended) An exercise apparatus comprising:

(a) a frame with an upper region and a main pivot point axis located in the upper region, the frame further including a fore direction and an aft direction, the main pivot axis being located generally transverse to the fore and ~~apt~~ aft direction;

(b) a press arm having a full butterfly movement, the press arm having a main arm member and a pair of secondary arms, the main arm member pivotally connected to the frame about the main pivot axis, the secondary arms pivotally connecting to the main arm member about secondary axes such that the arms are inclined from the vertical and extend downwardly and forwardly below the horizontal when at rest, the secondary axes being laterally spaced apart and the press arms assuming a natural rest position under the influence of gravity in which press arm handles are at a comfortable starting position for performance of a press exercise; and

(c) a source of exercise resistance coupled to the press arm comprising a weight coupled to the press arm via one or more cables, such that, during use, the secondary arms are capable of pivoting inward and outward about their respective secondary axes

while the main arm member is simultaneously pivoting about the main pivot axis, thus allowing the user to perform either a straight chest press exercise motion or one incorporating a butterfly motion therewith.

60. (Currently Amended) An exercise apparatus comprising:

(a) a frame with an upper region and a main pivot point axis located in the upper region, the frame further including a fore direction and an aft direction, the main pivot axis being located generally transverse to the fore and ~~apt~~ aft direction;

(b) a press arm having a full butterfly movement, the press arm having a main arm member and a pair of secondary arms, each with proximal and distal ends, the main arm member pivotally connected to the frame about the main pivot axis, the proximal ends of the secondary arms pivotally connecting to the main arm member about secondary axes, the secondary axes being laterally spaced apart and inclined from the vertical in a forward direction such that when at rest, the secondary arms extend downwardly and forwardly at an angle below horizontal whereby the press arms assuming a natural rest position under the influence of gravity in which press arm handles are at a comfortable starting position for performance of press exercise; and

(c) a source of exercise resistance coupled to the press arm, wherein the source of resistance comprises a weight coupled to the press arm via one or more cables, such that during use, the secondary arms are capable of pivoting inward and outward about their respective secondary axes while the main arm member is simultaneously pivoting

about the main pivot axis, thus allowing the user to perform either a straight chest press exercise motion or one incorporating a butterfly motion therewith.

3. The following is an examiner's statement of reasons for allowance: the prior art does not disclose the secondary arms extending downwardly and forwardly when at rest. Each *Deola* reference shows the secondary arms joined to the main arm member by a universal joint having secondary axes that are spaced and inclined from the vertical in a forward direction less than horizontal. The universal joint and weight of the secondary arms would cause the secondary arms to depend in a vertical direction when the arms are at rest, "at rest" taken to mean no user engagement. The press arm of *Simonson* does not allow a full butterfly movement.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor K. Hwang whose telephone number is (571) 272-4976. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM Eastern time.

The facsimile number for submitting papers directly to the examiner for informal correspondence is (571) 273-4976. The facsimile number for submitting all formal correspondence at this time is (703) 872-9306.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on (571) 272-4887.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Victor K. Hwang
March 7, 2005

JEROME W. DONNELLY
PRIMARY EXAMINER

